

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TALITHA KINCADE)	
BROUGHTON,)	
)	CIVIL ACTION FILE NO.:
Plaintiff,)	
)	
v.)	
)	[Removed from
)	The State Court of
WALMART, INC.)	Cobb County;
)	Civil Action File No.
)	22-A-2859]
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant WALMART, INC., by and through counsel, within the time prescribed by law, and without waiving any defenses, file this Notice of Removal, respectfully showing this Honorable Court, as follows:

1.

Plaintiff Talitha Kincade Broughton filed a negligence suit against the Defendants in the State Court of Cobb County, Georgia styled as above and numbered as Civil Action File No. 22-A-2859. Cobb County is in the Atlanta Division of this Court. 28 U.S.C. § 90 (a)(2).

2.

Plaintiff is either a California or Georgia citizen.

3.

Walmart Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas. It was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit, or at any time thereafter.

4.

Complete diversity of citizenship exists between Plaintiff and Defendant.

5.

Defendant Walmart, Inc. received service of summons and a copy of the Complaint on September 22, 2022.

6.

Defendant has timely removed this case pursuant to 28 U.S.C. §1446(b)(1) which provides that the “notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based” Fed. R. Civ. P. 6(a)(1)(C) provides

that the calculation shall continue onto the next non-weekend date. Accordingly, this Notice of Removal is filed within thirty days of the service of Plaintiff's Complaint upon Defendants on September 22, 2022 with October 22, 2022 falling on a Saturday.

7.

Plaintiff alleges incurred medical expenses “in an amount not less than Eighty-Two Thousand Dollars (\$82,000.00) for which plaintiff is entitled to recovery). (Ex. A, *Compl.*, p. 3, ¶ 11).

8.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332(a) and 1441 because complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00.

9.

Pursuant to 28 U.S.C. § 1446, Defendants have attached as Exhibit “A” copies of all process, pleadings and Orders that were served on and/or provided to Defendant, including copies of all pleadings that have been filed to date in the State Court of Cobb County, Georgia for the above-styled case.

10.

Although plaintiff verified her Complaint, a verified responsive pleading is not required. Fed. R. Civ. P. 11(a); *Kirkland v. Guardian Life Ins. Co. of America*,

352 Fed. Appx. 293, 297 (2009).

11.

Pursuant to 28 U.S.C. §1446, Defendant is not required to file a removal bond.

12.

A true and correct copy of this Notice of Removal shall be filed with the Clerk of the State Court of Cobb County, as required by 28 U.S.C. §1446.

13.

Written notice of the filing of this Notice of Removal shall be given to all Parties, through their counsel of records, as required by 28 U.S.C. §1446.

WHEREFORE, Defendants pray that the above-captioned lawsuit would be removed to and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division.

This 24th day of October, 2022.

WALDON ADELMA CASTILLA
HIESTAND & PROUT

/s/ Casey J. Brown
Jonathan M. Adelman
Georgia Bar No. 005128
Casey J. Brown
Georgia Bar No. 757384
Attorneys for Defendant

900 Circle 75 Parkway
Suite 1040
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cbrown@wachp.com

CERTIFICATE OF COMPLIANCE

On this date, the undersigned hereby certifies that the foregoing pleading complies with the font and point selections approved by the Court pursuant to Local Rule 5.1B. The foregoing pleading has been prepared in 14-point Times New Roman font.

This 24th day of October, 2022.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Casey J. Brown

Jonathan M. Adelman
Georgia Bar No. 005128
Casey J. Brown
Georgia Bar No. 757384
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that, on this the 24th day of October, 2022, I electronically filed the foregoing *Notice of Filing of Notice of Removal to Federal Court* with the Clerk of this Court using the CM/ECF system which will automatically provide notice of such filing via electronic mail to the following attorney(s) of record:

Christopher S. Harris
Harris & Harris, LLC
P.O. Box 679
Palmetto, Georgia 30267
Harrisandharrislaw@gmail.com

This 24th day of October, 2022.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Casey J. Brown

Jonathan M. Adelman

Georgia Bar No. 005128

Casey J. Brown

Georgia Bar No. 757384

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